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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	NO. CR _____
)	
v.)	ORDER RE DISCOVERY,
)	STIPULATIONS AND
_____)	EVIDENCE IN
)	CRIMINAL CASES
_____)	
)	
_____)	
)	
Defendant/s.)	
_____)	

In order to obviate unnecessary motions for discovery in criminal actions, proceedings, matters or cases assigned to the undersigned court for trial, IT IS HEREBY ORDERED:

1.0 Meeting of Counsel

The United States Attorney and defendant's attorney shall meet and confer no later than _____ to provide the discovery and expedition of the trial contemplated by this order. A written report of this meeting shall be filed no later than _____.

1 1.1 Definitions

2 (a) When the term "available to the government" is used
3 herein, it shall include, but not be limited to, those items in the
4 actual possession, custody or control of the United States Attorney,
5 such items as may be acquired by inquiry of law enforcement officials,
6 local, state and federal, or of private sources involved in the
7 transaction or transactions surrounding the offense/offenses in the
8 information/indictment.

11 1.2 Discovery by Defendant

12 Upon request of defendant's counsel, the government shall provide
13 defendant's attorney with:

14 (a) Statement of defendant. A copy of defendant's written or
15 recorded statements or confessions relevant to the charge or charges
16 which are available to the government.

17 The government shall advise defendant's attorney of the substance
18 of an oral statement available to the government in response to any
19 interrogation by an employee or agent of any governmental agency,
20 local, state or federal, or private source involved in the
21 investigation or reporting of the offense/offenses charged in the
22 information/indictment.

23 A copy of the recorded testimony of the defendant before a grand
24 jury which relates to the offense/offenses charged in the
25 information/indictment.

26 (b) Prior record. A copy of the prior criminal record of the
27 defendant and the prior felony convictions of any witness the
28 government intends to call in its case in chief.

1 (c) Documents and Tangible Objects. All books, papers,
2 documents, photographs, tangible objects, buildings or places or
3 copies or portions thereof relevant to the offense/offenses charged in
4 the information/indictment available to the government.

5 (d) Reports of Examinations and Tests. The results, by the
6 original or copy, of physical or mental examinations and of scientific
7 tests or experiments made in connection with the particular case and
8 available to the government.

9 Defendant's attorney shall be given reasonable access to the
10 reports, documents or tangible objects produced for the purpose of
11 copying or photographing them.

12 (e) Expert Witnesses. A written resume of the qualifications of
13 any expert witness which the United States Attorney intends to call in
14 the case in chief together with a statement of the substance of such
15 expert's expected testimony.

16 (f) Electronic Surveillance. A statement of the existence or
17 non-existence of any evidence obtained as the result of electronic
18 surveillance. The production of such material shall be subject to
19 hearing by the court as hereinafter described.

20 (g) Informers. A statement of the existence or non-existence of
21 testimony by a government informer. The question of privilege of non-
22 disclosure by the government shall be subject to hearing by the court
23 as hereinafter described.

24 (h) Brady Material. All material within the purview of Brady v.
25 Maryland, 373 U.S. 83 (1963).

26
27 1.3 Discovery by Government

28 The defendant's attorney shall disclose to the United States

1 Attorney:

2 (a) Expert Witnesses. A written resume of the qualifications of
3 any expert witness which the defendant intends to call in his case in
4 chief together with a statement of the substance of such experts'
5 expected testimony.

6 (b) Scientific or Medical Reports. The results, by the original
7 or a copy, of any scientific or medical report which defendant intends
8 to use in the presentation of his case in chief.

9 (c) Defense of Alibi. The United States Attorney shall notify
10 the defendant in writing of the specific time, date and place at which
11 the offense/offenses charged in the information/indictment is/are
12 alleged to have been committed.

13 Defendant shall thereafter notify the United States Attorney, in
14 writing, within three (3) days, of the specific place at which he
15 claims to have been at the time of the alleged offense/offenses to
16 which the defense of alibi will be addressed and the names and
17 addresses of the witnesses upon whom he intends to rely to establish
18 such alibi.

19 Within five (5) days thereafter, or such other time as the court
20 may direct, the United States Attorney shall inform the defendant of
21 the names and addresses of the witnesses upon whom the government
22 intends to rely to establish defendant's presence at the scene of the
23 alleged offense.

24 Failure to comply with the time limits set forth herein shall
25 invoke the sanction provided in Federal Rules of Criminal Procedure,
26 Rule 12.1(d).

27 (d) Defense based on Mental Condition. In writing, defendant
28 will rely in upon the defense of insanity at the time of the alleged

1 crime, or of mental disease, defect, or other condition bearing upon
2 whether he had the mental state required for the offense charged.
3 Notice of such claimed defense shall also be filed with the Clerk.

4 Failure to give such notification in writing shall invoke the
5 sanctions set forth in Federal Rules of Criminal Procedure, Rule
6 12.2(d).

7 (e) Entrapment. The defendant will rely on the defense of the
8 procurement of government employees or agents to commit the
9 offense/offenses charged in the information/indictment.

10 11 1.4 Objections to Evidence.

12 Unless specific written objection is made to the evidentiary
13 foundation of any document, photograph, book, paper or other tangible
14 object disclosed at the required conference of counsel, said written
15 objection to be included in the report hereafter required to be
16 filed, it shall be deemed that the requirement of foundation
17 (including chain of custody) for the introduction of such evidence at
18 trial is waived.

19 If a report produced at the required conference of counsel,
20 contains the result of a scientific test, performed by a competent
21 expert witness (as shown by a resume) is not objected to in the
22 report to the court hereafter required to be filed, an objection to
23 the admissibility of said report in lieu of the testimony of the
24 expert performing such scientific test shall be deemed to have been
25 waived.

26 27 1.5 Report of Conference

28 Within five (5) days after the conference required herein, the

1 United States Attorney and defendant's counsel shall report to the
2 court in writing:

3 (a) A statement that the conference has been held.

4 (b) The date of said conference.

5 (c) The name of the Assistant United States Attorney with whom
6 the conference was held.

7 (d) A statement of the evidentiary objections or absence thereof
8 to the admissibility of any document, photograph, book, paper or
9 other tangible object, or the report of any scientific test or the
10 expertise of any proposed expert witness.

11 (e) The disclosures of the parties, or absence thereof, of any
12 information required by paragraph 1.2 or 1.3 by either party.

13 (f) A brief statement of any anticipated novel, unique, unusual
14 or difficult question of law or evidence and a summary of the
15 contentions of each party with respect thereto together with a brief
16 reference to appropriate authority.

17

18 1.6 Hearing on Motions

19 All pretrial motions shall be filed no later than twenty-five
20 (25) days prior to trial and set for hearing eight (8) days prior to
21 trial at 1:30 p.m. The party opposing the motion shall file a
22 response no later than twelve (12) days prior to trial or no later
23 than seven (7) days after service of the notice of motion, whichever
24 is earlier, or as otherwise directed by the court.

25

26 1.7 Continuing Duty

27 Any duty of disclosure and discovery set forth herein is a
28 continuing one upon both parties.

1.8 Duties of Counsel

2 It shall be the joint duty of counsel for the defendant and the
3 United States Attorney to schedule and provide for the conference
4 contemplated in this rule.

6 | 1.9 Witness Statements

7 The United States Attorney shall file with the court in camera
8 (under seal) all witness statements of all witnesses to be called by
9 the government in its case in chief. Such statements shall be filed
10 at least ten (10) days prior to trial.

11 The United States Attorney shall also file with the court a list
12 which shall include the name of each witness, the date of any
13 statement given by said witness and the name of the person taking the
14 statement. Said list shall be filed separately from the statements
15 filed under seal as above provided.

16 Failure to provide such statements may, in the discretion of the
17 court, preclude the presentation of testimony of any such witness.

18 IT IS SO ORDERED.

LAUGHLIN E. WATERS
Sr. United States District Judge

28 REVISED 3/98